

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C.**

LBE, INC.

Respondent

CASE 7-CA-52090

and

**LOCAL 486, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS**

Charging Union

**COUNSEL FOR THE GENERAL COUNSEL'S
MOTIONS TO TRANSFER CASE TO AND CONTINUE PROCEEDINGS
BEFORE THE BOARD AND FOR DEFAULT JUDGMENT**

Now comes Robert M. Buzaitis, Counsel for the General Counsel in this matter, and pursuant to Sections 102.24 and 102.50 of the Board's Rules and Regulations, Series 8, as amended, files these Motions to Transfer Case to and Continue Proceedings Before the Board and Motion for Default Judgment, and in support of the Motions, states as follows:

1. The original charge was filed by the Charging Union on May 13, 2009, and a copy was served by regular mail on Respondent on May 14, 2009. Copies of the charge and the certificate of service for the charge are attached as Exhibits A and B, respectively.

2. On July 14, 2009, the Regional Director for the Seventh Region issued and served upon Respondent by certified mail a Complaint and Notice of Hearing. Copies of the Complaint and the affidavit of service are attached as Exhibits C and D, respectively. On July 22, 2009, the Complaint sent by certified mail was returned as “refused.” A copy of the refused mail envelope is attached as Exhibit E. It is well settled that a respondent's failure or refusal to accept certified mail or to provide for appropriate service cannot serve to defeat the purposes of the Act. *I.C.E. Electric, Inc.*, 339 NLRB 247 fn. 2 (2003).

3. On July 29, 2009, the Regional Director for the Seventh Region wrote and served upon Respondent a letter by certified and regular mail, advising that Respondent had not filed an answer to the Complaint. Respondent was further advised that unless it filed an appropriate answer by August 5, 2009, a Motion for Default Judgment would be sought. A copy of that letter and the affidavit of service of the letter are attached as Exhibits F and G, respectively. On August 3, 2009, the certified copy of the letter was returned as refused. A copy of the envelope is attached as Exhibit H. The letter sent by regular mail was not returned as undeliverable. It is well settled that a respondent's failure or refusal to accept certified mail or to provide for appropriate service cannot serve to defeat the purposes of the Act. *I.C.E. Electric, Inc.*, 339 NLRB 247 fn. 2 (2003).

5. On August 5, 2009, the Regional Director for the Seventh Region wrote and served upon Respondent a letter by certified and regular mail, advising that Respondent's July 29 response did not constitute a proper answer under Section 102.20 and 102.21 of the Board's Rules and Regulations. Respondent was further advised that unless it filed an appropriate answer by August 12, 2009, a Motion for Default Judgment would be sought. A copy of that letter and the affidavit of service of the letter are attached as Exhibits J and K, respectively. To date, the letters sent by certified and regular mail were not returned.

6. No appropriate answer to the Complaint has been filed to date by Respondent, nor has Respondent filed to date any document purporting to be an appropriate answer. An affidavit by the Acting Regional Director for the Seventh Region establishing these facts is attached as Exhibit L.

7. In the Complaint and Notice of Hearing served upon Respondent, as noted above, Respondent was advised as follows:

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint.

The answer must be **received by this office on or before July 28, 2009, or postmarked on or before July 27, 2009.** Respondent should file an

original and four copies of the answer with this office and serve a copy of the answer on each of the other parties. . . . The answer may not be filed by facsimile transmission. If no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

8. Section 102.20 of the Board's Rules and Regulations, Series 8, as amended, provides *inter alia*: "All allegations in the complaint, if no answer is filed . . . shall be deemed to be admitted to be true and shall be so found by the Board" Because no answer has been filed to the Complaint, all of the allegations of the Complaint should be deemed to be admitted and found to be true. *Neal B. Scott Commodities, Inc.*, 238 NLRB 32 (1978); *SDS Distributing Corp.*, 245 NLRB 322 (1979).

WHEREFORE, Counsel for the General Counsel respectfully moves:

1. That this Case and Motions be transferred to the Board and ruled on immediately so that in the event they are granted, the necessity and expense of a hearing involving Respondent will be obviated.

2. That all allegations of the Complaint be deemed to be admitted to be true, and so found by the Board, and that Respondent be found by the Board to have violated

Sections 8(d), 8(a)(1) and (5) of the National Labor Relations Act, as amended, without taking evidence in support of the Complaint.

3. That the Board issue a Decision containing findings of fact, conclusions of law, and an Order, all consistent with the allegations in the Complaint against Respondent and the prayer for relief set forth therein.

Respectfully submitted this 13th day of August, 2009.

A handwritten signature in dark ink, appearing to read "Robert M. Buzaitis", is written over a horizontal line.

Robert M. Buzaitis
Counsel for the General Counsel
National Labor Relations Board
Seventh Region
Patrick V. McNamara Federal Building
477 Michigan Avenue - Room 300
Detroit, Michigan 48226-2569

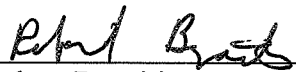
I certify that on the 13th day of August, 2009, I e-mailed copies of the Counsel for the General Counsel's Motions to Transfer Case to and Continue Proceeding Before the Board and for Default Judgment to the following parties of record:

L.B.E. Inc.
Tony Lander

tlander@lb-omni.com

Local 486 Teamsters
Edgar Morin

e.morin486@charterinternet.com



Robert Buzaitis
Counsel for the General Counsel

FORM NLRB-501

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
7-CA-52090	5-13-09

INSTRUCTIONS

File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. Name of Employer L.B.E.	b. Number of workers employed 13	
c. Address (street, city, state, ZIP code) 966 Bridgeview South, Saginaw, MI 48604	d. Employer Representative Tony Lander	e. Telephone No. 989-752-6963
f. Type of Establishment (factory, mine, wholesaler, etc.) Transportation Service	g. Identify principal product or service DHL Package Delivery	
h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and <u>5</u> of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)		
<p>The above named employer has failed to provide information regarding a Contract Employee Retention Program (C.E.R.P.) funded by DHL in support of the contractors employee's during the shutdown of the DHL Operations in Freeland, Michigan. Since the last meeting discussing the affects of the closing, the employer has continued to ignore the Unions request for additional information on the Contract Employee Retention Program thus making it impossible to complete the affects bargaining process.</p> <p>By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.</p> <p>By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.</p>		
3. Full name of party filing charge (if labor organization, give full name, including local name and number)		
Teamsters Local Union No. 486		
4a. Address (street and number, city, state and ZIP code)	4b. Telephone No.	
805 Bridgeview South, Saginaw, MI 48604	989-771-9000	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization.)		
International Brotherhood of Teamsters		
B. DECLARATION		
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		
By <u>Edgar J. Morin</u>	Title Business Agent	
Signature of representative of person making charge Edgar J. Morin	Telephone No.	Date 5/13/09
Address 805 Bridgeview South Saginaw, MI 48604	989-771-9000, Ext. 18	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT
(U.S. CODE, TITLE 18, SECTION 1001)

EXHIBIT A

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

L.B.E.

Case 7-CA-52090

DATE OF MAILING: May 14, 2009
AFFIDAVIT OF SERVICE OF CHARGE

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Mr. Tony Lander
L.B.E.
966 Bridgeview South
Saginaw, MI 48604

Mr. Edgar Morin
Local 486 Teamsters
805 Bridgeview South
Saginaw, MI 48604

Designated Agent

Linda J. Balash

NATIONAL LABOR RELATIONS BOARD

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION**

LBE, INC.

Respondent

and

CASE 7-CA-52090

**LOCAL 486, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS**

Charging Union

COMPLAINT AND NOTICE OF HEARING

The Charging Union has charged that Respondent has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Section 151 et seq. Based thereon, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, issues this Complaint and Notice of Hearing and alleges as follows:

1. The charge in this proceeding was filed by the Charging Union on May 13, 2009, and a copy was served by regular mail on Respondent on May 14, 2009.

2. At all material times, Respondent, a corporation, with an office in Saginaw, Michigan, has been engaged in providing freight pickup and delivery service for DHL Express (USA), Inc.

3. During calendar year 2008, a representative period, Respondent, in conducting its operations described in paragraph 2, derived gross revenues in excess of \$100,000, and provided services in excess of \$50,000 to DHL Express (USA), Inc., which itself, during the same period of time, derived gross revenues in excess of \$50,000 for the transportation of freight from the State of Michigan directly to points outside the State of Michigan.

4. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. At all material times, the Charging Union has been a labor organization within the meaning of Section 2(5) of the Act.

6. At all material times, Tony Lander has held the position of Respondent's president and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

7. The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time drivers and dock employees employed by Respondent located in the DHL Express (USA), Inc., distribution facility located at 8015 Garfield Road, Freeland, Michigan, but excluding all office clerical employees and guards and supervisors as defined in the Act.

8. Since about 2005, and all material times, the Charging Union has been the designated exclusive collective bargaining representative of the Unit and has been so recognized by the Respondent. This recognition has been embodied in a collective bargaining agreement which is effective from January 1, 2007 through January 1, 2010.

9. At all material times, based on Section 9(a) of the Act, the Charging Union has been the exclusive collective bargaining representative of the Unit.

10. On about February 10 and 19, 2009, the Charging Union, by email, and by email and a letter, respectively, requested that Respondent provide a copy of the document between DHL and Respondent regarding the shutdown of Respondent's operation, less any financial amounts.

11. On about March 23, 2009, the Charging Union, by letter, requested that Respondent furnish it with information pertaining to the DHL Contract Employee Retention Program (CERP), less any financial amounts.

12. The information requested by the Charging Union, as described in paragraphs 10 and 11, is necessary for, and relevant to, the Charging Union's performance of its duties as the exclusive collective bargaining representative of the Unit

13. Since about February 10, 2009, Respondent has failed and refused to provide to the Charging Union the information described in paragraph 10.

14. Since about March 23, 2009, Respondent has failed and refused to provide to the Charging Union the information described in paragraph 11.

15. By the conduct described in paragraphs 13 and 14, Respondent has been failing and refusing to bargain collectively and in good faith with the Charging Union as the exclusive collective bargaining representative of the Unit, in violation of Section 8(a)(1) and (5) of the Act.

16. The described unfair labor practices of Respondent affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, it is prayed that Respondent be ordered to:

1. Cease and desist from:

(a) engaging in the conduct described in paragraphs 13 and 14, or in any like or related manner, interfering with, restraining or coercing its employees in the exercise of rights guaranteed in Section 7 of the Act.

(b) engaging in the conduct described in paragraphs 13 and 14, or in any like or related manner refusing to bargain collectively and in good faith with the Charging Union as the exclusive collective bargaining representative of the Unit.

2. Take the following affirmative action:

(a) Provide the Charging Union with the requested information described in paragraphs 10 and 11.

(b) Upon request, bargain collectively and in good faith with the Charging Union as the exclusive collective bargaining representative of the Unit in regard to wages, hours, and other terms and conditions of employment.

(c) Post appropriate notices.

The General Counsel prays for such other relief as may be just and proper to remedy the unfair labor practices herein alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before July 28, 2009, or postmarked on or before July 27, 2009.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. A failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Sections 102.21. If an answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer needs to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on the 31st day of August 2009 at 11:00 a.m., at a place to be designate at a later date, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint.

The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Detroit, Michigan, this 14th day of July, 2009.

/s/ Stephen M. Glasser

(SEAL)

Stephen M. Glasser, Regional Director
National Labor Relations Board, Region 7
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 300
Detroit, Michigan 48226

SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD BEFORE THE NATIONAL LABOR RELATIONS BOARD IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

In the discretion of the administrative law judge, any party may, on request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge who will fix the time for such filing. Any such filing submitted shall be double-spaced on 8½ by 11 inch paper.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations, with respect to the procedure to be followed before the proceeding is transferred to the Board:

No request for an extension of time within which to submit briefs or proposed findings to the administrative law judge will be considered unless received by the Chief Administrative Law Judge in Washington, DC (or, in cases under the branch offices in San Francisco, California; New York, New York; and Atlanta, Georgia, the Associate Chief Administrative Law Judge) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously on all other parties, and proof of such service furnished to the Chief Administrative Law Judge or the Associate Chief Administrative Law Judge, as the case may be. A quicker response is assured if the moving party secures the positions of the other parties and includes such in the request. All briefs or proposed findings filed with the administrative law judge must be submitted in triplicate, and may be printed or otherwise legibly duplicated with service on the other parties.

In due course the administrative law judge will prepare and file with the Board a decision in this proceeding, and will cause a copy thereof to be served on each of the parties. Upon filing of this decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, on all parties. At that point, the administrative law judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the administrative law judge's decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be served on the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations. If adjustment appears possible, the administrative law judge may suggest discussions between the parties or, on request, will afford reasonable opportunity during the hearing for such discussions.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION

LBE, INC.

Respondent

AND

CASE 7-CA-52090

LOCAL 486, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

Charging Union

DATE OF MAILING: July 14, 2009

AFFIDAVIT OF SERVICE OF: COMPLAINT AND NOTICE OF HEARING, I the undersigned employee of the National Labor Relations and, being duly sworn, depose and say that on the dated indicated above I served the above-entitled document(s) by post-paid Certified mail upon the following persons, addressed to them at the following address:

CERTIFIED MAIL:

**CERTIFIED
MAIL**

LBE, Inc.
966 Bridgeview South
Saginaw, MI 48604
ATTN: Tony Lander

7003 2260 0007 3921 2866

REGULAR MAIL:

Local 486, International Brotherhood
of Teamsters
805 Bridgeview South
Saginaw, MI 48604
ATTN: Edgar Morin

/s/ Sheila M. Matlock

/s/ Linda Tyler

Sheila M. Matlock, Mail Clerk

LINDA TYLER, NOTARY PUBLIC
FOR WAYNE COUNTY MICHIGAN. My commission expires 12/05/13
Subscribed and sworn to before me
Designated Agent
This 14th day of July 2009

JK/smm

EXHIBIT E



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 7

477 Michigan Avenue – Room 300

Detroit, Michigan 48226-2569

Telephone: (313) 226-3200

FAX: (313) 226-2090

July 29, 2009

LBE, Inc.

966 Bridgeview South

Attn: Tony Lander

Saginaw, MI 48604

Re: LBE, Inc.

Case 7-CA-52090

Dear Mr. Lander:

According to our records, the Respondent has not filed an answer to the Complaint and Notice of Hearing (hereinafter Complaint) which issued in this case on July 14, 2009. As you were advised at the time Complaint issued, Respondent is required to file an original and four copies of an Answer to the Complaint on or before July 28, 2009. This is pursuant to the Board's Rules and Regulations, Sections 102.20 and 102.21.

Any answer to the Complaint filed now would be untimely and should be accompanied by a statement indicating the reason for its late submission.

Please be advised that unless you comply with the Board's Rules and Regulations with respect to the filing of an appropriate Answer by Wednesday, August 5, 2009, we will have no alternative but to file a Motion for Default Judgment with the Board and, if granted, all the allegations in the Complaint would be deemed admitted as true.

In the event you are having problems meeting the time requirements as to filing an Answer, please be advised that you may receive an extension of time, pursuant to Section 102.22 of the Board's Rules and Regulations, by submitting proper cause therefore to the Regional Director. A letter to the Regional Director with copies to the other parties setting forth the reason for the request will suffice. Your request will be ruled upon promptly.

EXHIBIT F

If you have any questions or requests concerning this letter or the Board's Rules, please call the agent to whom the case is assigned or in his/her absence, the immediate supervisor or me.

Thank you for your kind cooperation.

Very truly yours,

**Stephen M. Glasser
Regional Director**

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

LBE, INC.

Respondent

and

**LOCAL 486, INTERNATIONAL; BROTHERHOOD
OF TEAMSTERS**

Case No. 7-CA-52090

Charging Union

DATE OF MAILING: July 29, 2009

AFFIDAVIT OF SERVICE OF: Letter requesting Answer

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by certified and regular mail upon the following persons, addressed to them at the following addresses:

**LBE, Inc.
966 Bridgeview South
Attn: Tony Lander
Saginaw, MI 48604**

0001 8424 6433

<p>Subscribed and sworn to before me this 29th day of July 2009.</p>	<p>Designated Agent Linda L. Tyler, NOTARY PUBLIC Wayne County, Michigan -12-5-2013 NATIONAL LABOR RELATIONS BOARD</p>
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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 7
477 MICHIGAN AVE - ROOM 300
DETROIT, MI 48226-2569
An Equal Opportunity Employer

OFFICIAL BUSINESS
Penalty for Private Use, \$300.

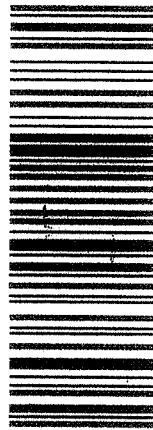
CERTIFIED MAIL
Return Receipt Requested
Return in 5 days

Refused

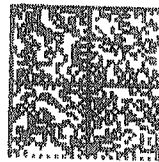
LBE, Inc.
966 Bridgeview South
Attn: Tony Lander
Saginaw, MI 48604

48226*2569

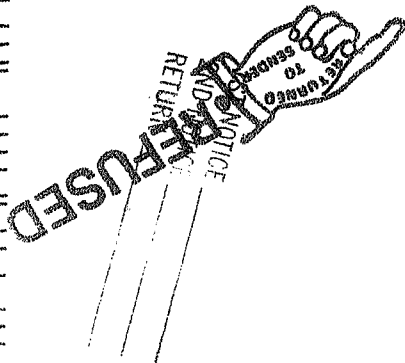
CERTIFIED MAILTM



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United States Government

NATIONAL LABOR RELATIONS BOARD
Region 7

477 Michigan Avenue – Room 300
Detroit, Michigan 48226-2569

RECEIVED
NLRB
REGION 7

2009 AUG -4 AM 11:21

DETROIT, MI

Telephone: (313) 226-3200
FAX: (313) 226-2090

July 29, 2009

LBE, Inc.
966 Bridgeview South
Attn: Tony Lander
Saginaw, MI 48604

Re: LBE, Inc.
Case 7-CA-52090

Dear Mr. Lander:

According to our records, the Respondent has not filed an answer to the Complaint and Notice of Hearing (hereinafter Complaint) which issued in this case on July 14, 2009. As you were advised at the time Complaint issued, Respondent is required to file an original and four copies of an Answer to the Complaint on or before July 28, 2009. This is pursuant to the Board's Rules and Regulations, Sections 102.20 and 102.21.

Any answer to the Complaint filed now would be untimely and should be accompanied by a statement indicating the reason for its late submission.

Please be advised that unless you comply with the Board's Rules and Regulations with respect to the filing of an appropriate Answer by Wednesday, August 5, 2009, we will have no alternative but to file a Motion for Default Judgment with the Board and, if granted, all the allegations in the Complaint would be deemed admitted as true.

In the event you are having problems meeting the time requirements as to filing an Answer, please be advised that you may receive an extension of time, pursuant to Section 102.22 of the Board's Rules and Regulations, by submitting proper cause therefore to the Regional Director. A letter to the Regional Director with copies to the other parties setting forth the reason for the request will suffice. Your request will be ruled upon promptly.

*Complaint was mailed back to NLRB this week
The Respondent's statement is not true and false—
As stated in my letter, there was an agreement with
LBE to withdraw from the case. Danvers and Michael
to the Board. This is what we did.*

EXHIBIT I

If you have any questions or requests concerning this letter or the Board's Rules, please call the agent to whom the case is assigned or in his/her absence, the immediate supervisor or me.

Thank you for your kind cooperation.

Very truly yours,

gk - 6-3/ASR
Stephen M. Glasser
Regional Director

The necessary drivers were maintained to
this accordingly —

When DNL closed its door, so did we —
at no time were any promises or guarantees made
to any one, as we did not have any to provide.

The agreement required us retain drivers to maintain
service, we did, it provided for 40 hours pay — we
did — If requested the return of all identification
we did — If had provisions for extension of time
— we did not — as they closed operation as indicated.
All vehicles were to be de-branded — They were
provided that all agreements between parties were
to be confidential — They are —



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 7
477 Michigan Avenue – Room 300
Detroit, MI 48226-2569

Telephone (313) 226-3200
FAX (313) 226-2090
www.nlrb.gov

August 5, 2009

CERTIFIED AND REGULAR MAIL

L.B.E., Inc.
Attn: Mr. Tony Lander
966 Bridgeview South
Saginaw, MI 48604

RE: L.B.E., Inc.
Case 7-CA-52090

Dear Mr. Lander:

On July 29, 2009, the undersigned notified you by letter, attached as Exhibit I, that, among other things, the Respondent had not filed an answer to the Complaint and Notice of Hearing (herein Complaint) that issued on July 14, 2009, the requirements and consequences under Section 102.20 and 102.21 of the Board's Rules and Regulations for failing to file an answer or proper answer to the Complaint, and the consequences in the event the Respondent fails to file an appropriate answer by August 5, 2009.

On August 4, 2009, the Region received a handwritten unsigned response to my July 29, 2009 letter, attached as Exhibit II, which appears to present the Respondent's position to the charge. Your response does not constitute a proper answer under Section 102.20 and 102.21 of the Board's Rules and Regulations as it fails to "specifically admit, deny, or explain each of the facts alleged in the Complaint, unless Respondent is without knowledge, in which case Respondent shall so state such statement operating as a denial," and was not signed.

Accordingly, please be advised that unless you comply with the Board's Rules and Regulations with respect to the filing of an appropriate Answer by Wednesday, August 12, 2009, we will have no alternative but to file a Motion for Default Judgment with the Board and, if granted, all the allegations in the Complaint would be deemed admitted as true.

EXHIBIT J

In the event you are having problems meeting the time requirements as to filing an Answer, please be advised that you may receive an extension of time, pursuant to Section 102.22 of the Board's Rules and Regulations, by submitting proper cause therefore to the Regional Director. A letter to the Regional Director with copies to the other parties setting forth the reason for the request will suffice. Your request will be ruled upon promptly.

If you have any questions or requests concerning this letter or the requirements as to what constitutes a proper answer under the Board's Rules and Regulations, please call the agent to whom the case is assigned or in his/her absence, the immediate supervisor or Regional Attorney Dennis Boren.

Thank you for your cooperation.

Very truly yours,

Stephen M. Glasser
Regional Director

DRB/lk
attachment



United States Government

**NATIONAL LABOR RELATIONS BOARD
Region 7**

**477 Michigan Avenue – Room 300
Detroit, Michigan 48226-2569**

**Telephone: (313) 226-3200
FAX: (313) 226-2090**

July 29, 2009

**LBE, Inc.
966 Bridgeview South
Attn: Tony Lander
Saginaw, MI 48604**

**Re: LBE, Inc.
Case 7-CA-52090**

Dear Mr. Lander:

According to our records, the Respondent has not filed an answer to the Complaint and Notice of Hearing (hereinafter Complaint) which issued in this case on July 14, 2009. As you were advised at the time Complaint issued, Respondent is required to file an original and four copies of an Answer to the Complaint on or before July 28, 2009. This is pursuant to the Board's Rules and Regulations, Sections 102.20 and 102.21.

Any answer to the Complaint filed now would be untimely and should be accompanied by a statement indicating the reason for its late submission.

Please be advised that unless you comply with the Board's Rules and Regulations with respect to the filing of an appropriate Answer by Wednesday, August 5, 2009, we will have no alternative but to file a Motion for Default Judgment with the Board and, if granted, all the allegations in the Complaint would be deemed admitted as true.

In the event you are having problems meeting the time requirements as to filing an Answer, please be advised that you may receive an extension of time, pursuant to Section 102.22 of the Board's Rules and Regulations, by submitting proper cause therefore to the Regional Director. A letter to the Regional Director with copies to the other parties setting forth the reason for the request will suffice. Your request will be ruled upon promptly.

If you have any questions or requests concerning this letter or the Board's Rules, please call the agent to whom the case is assigned or in his/her absence, the immediate supervisor or me.

Thank you for your kind cooperation.

Very truly yours,

**Stephen M. Glasser
Regional Director**



United States Government

**NATIONAL LABOR RELATIONS BOARD
Region 7**

**477 Michigan Avenue – Room 300
Detroit, Michigan 48226-2569**

RECEIVED
NLRB
REGION 7

2009 AUG -4 AM 11: 21

DETROIT, MI

Telephone: (313) 226-3200
FAX: (313) 226-2090

July 29, 2009

LBE, Inc.
966 Bridgeview South
Attn: Tony Lander
Saginaw, MI 48604

Re: LBE, Inc.
Case 7-CA-52090

Dear Mr. Lander:

According to our records, the Respondent has not filed an answer to the Complaint and Notice of Hearing (hereinafter Complaint) which issued in this case on July 14, 2009. As you were advised at the time Complaint issued, Respondent is required to file an original and four copies of an Answer to the Complaint on or before July 28, 2009. This is pursuant to the Board's Rules and Regulations, Sections 102.20 and 102.21.

Any answer to the Complaint filed now would be untimely and should be accompanied by a statement indicating the reason for its late submission.

Please be advised that unless you comply with the Board's Rules and Regulations with respect to the filing of an appropriate Answer by Wednesday, August 5, 2009, we will have no alternative but to file a Motion for Default Judgment with the Board and, if granted, all the allegations in the Complaint would be deemed admitted as true.

In the event you are having problems meeting the time requirements as to filing an Answer, please be advised that you may receive an extension of time, pursuant to Section 102.22 of the Board's Rules and Regulations, by submitting proper cause therefore to the Regional Director. A letter to the Regional Director with copies to the other parties setting forth the reason for the request will suffice. Your request will be ruled upon promptly.

*Complaint was mailed back to NLRB this week
The Respondent's statement is not true and false—
As stated in my letter, there was an agreement with
the Respondent, Savarino, Danvers and Shalaby to
file an answer. This is what we did.*

If you have any questions or requests concerning this letter or the Board's Rules, please call the agent to whom the case is assigned or in his/her absence, the immediate supervisor or me.

Thank you for your kind cooperation.

Very truly yours,

SKL-14-B/ASR
Stephen M. Glasser
Regional Director

The necessary Drivers were maintained but
paid accordingly —

When DNL closed its doors, so did we —
at no time were any promises or guarantees made
to any one, as we did not have any to provide.

The agreement required us retain Drivers to maintain
service, we did, & provided for 40 hours pay — we
did — If required the return of all Identification
we did — If had provisions for extension of time
— we did not — as they closed operations as indicated,
all vehicles were to be de-branded — They were
provided that ALL Agreements between Parties were
to be confidential — They are —

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION

LBE, INC.

CASE 7-CA-52090

Date of Mailing: August 5, 2009

AFFIDAVIT OF SERVICE OF LETTER REQUESTING ANSWER:

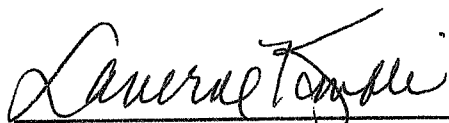
I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid: certified and regular mail upon the following persons, addressed to them at the following addresses:

CERTIFIED and REGULAR MAIL

L.B.E., Inc.
Attn: Mr. Tony Lander
966 Bridgeview South
Saginaw, MI 48604

CERTIFICATION NO.

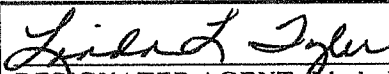
7004 2510 0001 4357 3561



Laverne Kimble, Office Automation Assistant

Subscribed and sworn to before me this

5th day of August, 2009



DESIGNATED AGENT: Linda L. Tyler
Notary Public for Wayne County, Michigan
MY COMMISSION EXPIRES: 12/5/2013

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
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EXHIBIT K

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C.

LBE, INC.

Respondent

CASE 7-CA-52090

and

LOCAL 486, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

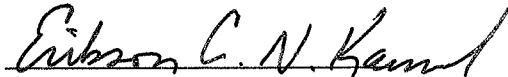
Charging Union

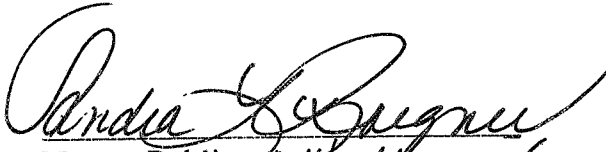
AFFIDAVIT

I, Erikson C.N. Karmol, being duly sworn, hereby swear that I am the Acting Regional Director for the Seventh Region of the National Labor Relations Board, that the Complaint and Notice of Hearing in Case 7-CA-52090 issued on July 14, 2009 and no appropriate Answer has been filed to date with the Seventh Region by Respondent.

Dated at Detroit, Michigan this 13 day of August, 2009.

(SEAL)


Erikson C.N. Karmol
Acting Regional Director, Seventh Region
National Labor Relations Board
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 300
Detroit, Michigan 48226


Notary Public *in Washtenaw County, acting*
in Wayne County, Michigan
My Commission expires 11-27-2012